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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,276	03/12/2004	John F. Maselter	51717/CTD/M896	1318
23363	7590	10/03/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			WRIGHT, ANDREW D	
		ART UNIT	PAPER NUMBER	
			3617	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/800,276	MASELTER, JOHN F.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew Wright	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 July 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9, 11, 12, 14-16 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12 is/are allowed.
- 6) Claim(s) 1, 2, 11 and 14-16 is/are rejected.
- 7) Claim(s) 3-9 and 26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 7/19/05. These drawings are acceptable for examination.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen et al. (US 1,735,660) in view of Blanchard (US 6,267,632). Regarding claim 1, Svendsen shows a marine vessel with a hull, transom, and engine within the hull (see figures 8 and 9). The engine has an engine drive shaft (81). A transmission (82, 83) is driven by the engine driveshaft. An upper driveshaft (16) is vertically spaced from the engine driveshaft, is driven by the transmission, and passes through the transom. A stern drive is attached at least indirectly to the transom and includes a vertical driveshaft (29), propeller shaft (33), and housing (5, 6, 8, 13, 15). The propeller shaft exits the housing. Svendsen is silent as to the waterline. Blanchard shows a marine vessel with a hull, transom, engine within the hull, drive shaft that passes through the transom, and a stern drive. Blanchard teaches that the drive shaft should pass through the transom above the waterline to minimize water leaks even if a gasket in the transom seal becomes damaged (column 2, lines 31-39). Therefore it would have

been obvious to one having ordinary skill in the art at the time the invention was made to modify Svendsen by making the upper driveshaft pass through the transom above the waterline. The motivation would be to provide the benefit taught by Blanchard.

4. Claim 2, Svendsen shows mounting plate (70) a portion of which is attached to the transom above the driveshaft and therefore above the waterline.

5. Claim 11, the gear (82) constitutes a flywheel and the gear (83) constitutes a drive wheel.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen in view of Blanchard as applied to claim 1 above, and further in view of Ford (US 4,713,029). Svendsen does not disclose a cooling system for the engine. It is well known and common to provide water cooling for marine engines. Ford shows an engine disposed within a hull. The engine has a cooling system, water pump (106), and water inlet (110) that is disposed through the hull. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Svendsen by using the cooling system shown by Ford. The motivation would be to provide water cooling for the engine to prevent overheating.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen in view of Blanchard as applied to claim 1 above, and further in view of Griffiths et al. (US 6,299,496). Svendsen does not disclose an exhaust system. Griffiths shows an engine within a hull. The engine has an exhaust conduit that terminates at the transom. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Svendsen by using the

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exhaust system shown by Griffiths. The motivation would be to remove harmful and noxious exhaust from the hull interior.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svendsen in view of Blanchard and Griffiths as applied to claim 15 above, and further in view of Bland et al. (US 6,406,344). Svendsen does not disclose a muffler. Bland shows an engine within a hull. The engine has an exhaust conduit that extends through the transom, like that of Griffiths. Bland shows a muffler between the engine and the transom. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Svendsen by using the muffler shown by Bland. The motivation would be to attenuate noise of the exhaust system to make the ride more comfortable for users and to comply with noise regulations.

***Allowable Subject Matter***

9. Claim 12 is allowed.

10. Claims 3-9 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

11. Applicant's arguments with regard to claim 12 are persuasive. The rejection has been withdrawn.

12. Applicant's arguments with respect to claims 1, 2, 14-16, and 11 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

13. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number 571-272-6690. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at 571-272-6684. **The Central FAX Number for official communications is 571-273-8300.** The fax number directly to the examiner for unofficial communications is 571-273-6690.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

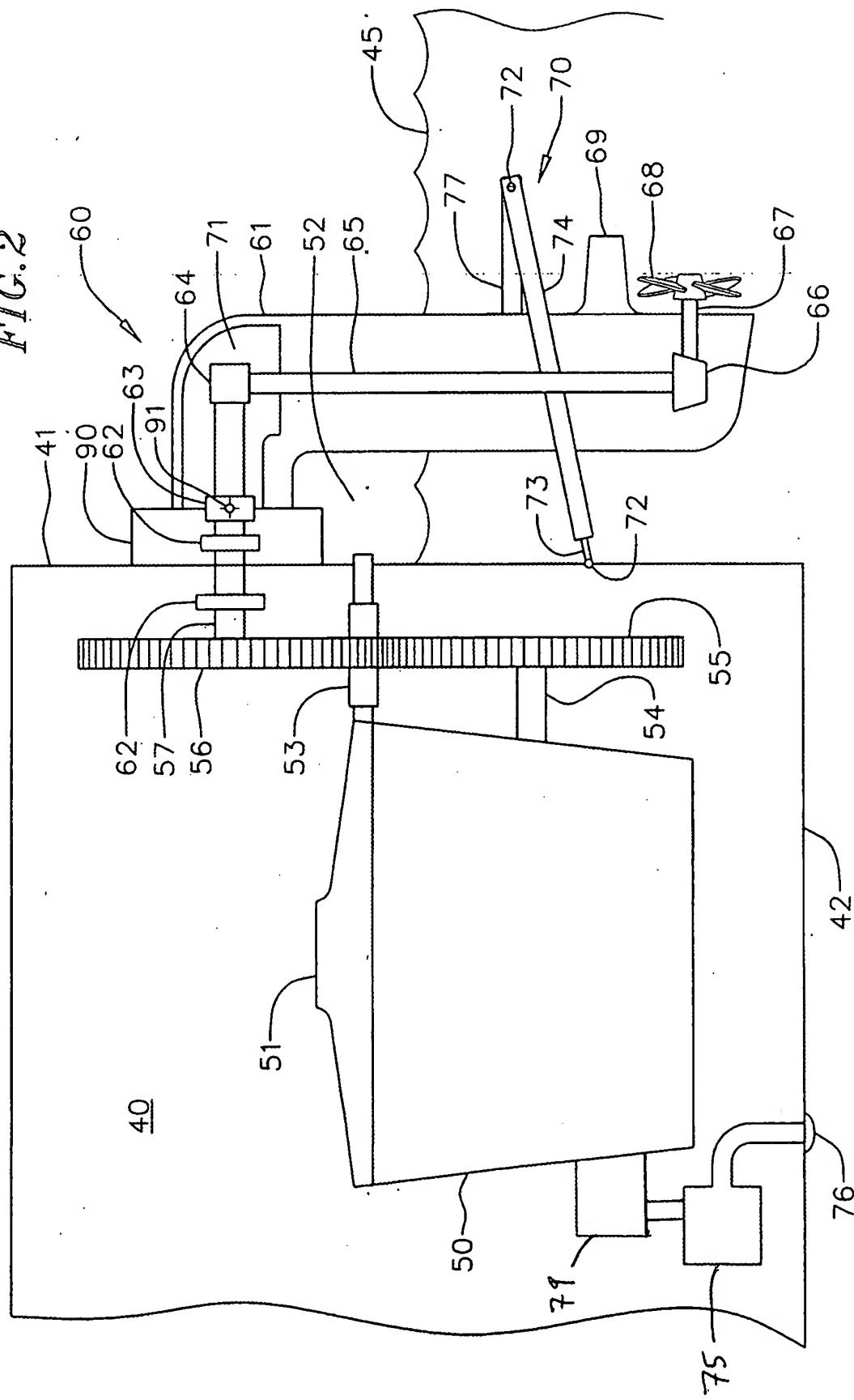
ANDREW D. WRIGHT  
PRIMARY EXAMINER

APR 27 2005

Appl. No. 10/800,276  
Amtd. Dated July 15, 2005  
Reply to Office action of March 15, 2005  
Replacement Sheet 1 of 1



FIG. 2



NEW SHEET

Fig. 5

